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IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

JOHN DUGAN, et al.,

Plaintiffs,

No. C 12-02549 WHA

v.

LLOYDS TSB BANK, PLC.,

Defendant.

**ORDER RE HEARING ON
MOTION FOR PRELIMINARY
APPROVAL OF CLASS
SETTLEMENT**

At the hearing scheduled for December 26, counsel shall be prepared to discuss the following:

1. The Court certified for class treatment the “120% Clause” class but refused to certify the “Cost of Funds” class. Nevertheless, the proposed settlement seeks to compromise Cost of Funds claims by settling class members. The release must be limited to the claims certified for class treatment. Please remember that.

Defendant vigorously argued against class treatment of the Cost of Funds class. Now it wants to roll these claims into the class settlement. This is further problematic since all 120% Clause class members would be giving up their Cost of Funds claims but part of their compensation would be committed to a seven-year process that may result in an election by plaintiffs’ counsel not to go forward with them — even though some individual class members may then have excellent claims.

2. In the event that a mailed settlement class notice is returned, that individual class member should be deemed to have opted out.

1 3. The Court would like to see the trial-ready expert damages report, so it can assess what
2 the percentage of recovery would be for the 120% Clause claims at trial. Counsel shall bring
3 copies of the report to the hearing.

4 4. Other issues may arise as the Court is still studying the proposed settlement.

5 5. Trial is set for February 24, 2014. Counsel shall please continue their trial preparation.
6 Do not suspend trial preparation on account of this proposed settlement. The Court looks
7 forward to meeting with counsel on December 26.

8

9 **IT IS SO ORDERED.**

10

11 Dated: December 23, 2013.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE